

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Mortgage Broker License of:

No. 10F-BD035-BNK

3 **ENVISION LENDING GROUP, INC.**
4 **AND AMY ANDERSON, PRESIDENT**
10813 S. River Front Parkway, Suite 300
South Jordan, UT 84095

NOTICE OF HEARING

5
6
7 Petitioners.

8 PLEASE TAKE NOTICE that, pursuant to the Arizona Revised Statutes ("A.R.S.")
9 §§ 6-137, 6-138 and 41-1092.02, the above-captioned matter will be heard through the Office of
10 Administrative Hearings, an independent agency, and is scheduled for June 16, 2010, at 8:00 a.m., at
11 the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona, (602)
542-9826 (the "Hearing").

12 The purpose of the Hearing is to determine if grounds exist for: (1) the issuance of an order
13 pursuant to A.R.S. § 6-137 directing Petitioners to cease and desist from the violative conduct and to
14 take the appropriate affirmative actions, within a reasonable period of time prescribed by the
15 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and
16 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the
17 suspension or revocation of Petitioners' license pursuant to A.R.S. § 6-905; and (4) an order or any
18 other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage
19 brokers pursuant to A.R.S. §§ 6-123 and 6-131.

20 Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of
21 Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied
22 or expressed, to the Director of the Office of Administrative Hearings or the Director's designee to
23 preside over the Hearing as the Administrative Law Judge, to make written recommendations to the
24 Superintendent consisting of proposed Findings of Fact, Conclusions of Law and Order. The Office
25 of Administrative Hearings has designated Lewis D. Kowal, at the address and phone number listed
26 above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona Administrative

1 Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and 41-1092.08, the
2 Superintendent retains authority to enter orders granting a stay, orders on motions for rehearing, final
3 decisions pursuant to A.R.S. § 41-1092.08 or other order or process which the Administrative Law
4 Judge is specifically prohibited from entering.

5 Motions to continue this matter shall be made in writing to the Administrative Law Judge **not**
6 **less than fifteen (15) days** prior to the date set for the Hearing. A copy of any motion to continue
7 shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of
8 Administrative Hearings.

9 A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by
10 counsel, or to proceed without counsel during the giving of all evidence, to have a reasonable
11 opportunity to inspect all documentary evidence, to cross-examine witnesses, to present evidence
12 and witnesses in support of his/her interests, and to have subpoenas issued by the Administrative
13 Law Judge to compel attendance of witnesses and production of evidence. Pursuant to A.R.S. § 41-
14 1092.07(B), any person may appear on his or her own behalf or by counsel.

15 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be
16 made by a court reporter or by electronic means. Any party that requests a transcript of the
17 proceedings shall pay the cost of the transcript for the court reporter or other transcriber.

18 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant
19 Attorney General Craig A. Raby, (602) 542-8889, 1275 West Washington, Phoenix, Arizona 85007.

20 **NOTICE OF APPLICABLE RULES**

21 On February 7, 1978, the Arizona Department of Financial Institutions (the "Department")
22 adopted A.A.C. R20-4-1201 through R20-4-1220, which were amended September 12, 2001, setting
23 forth the rules of practice and procedure applicable in contested cases and appealable agency actions
24 before the Superintendent. The Hearing will be conducted pursuant to these rules and the rules
25 governing procedures before the Office of Administrative Hearings, A.A.C. R2-19-101 through R2-
26 19-122. A copy of these rules is enclosed.

1 Pursuant to A.A.C. R20-4-1209, Petitioners shall file a written answer **within twenty (20)**
2 **days** after issuance of this Notice of Hearing. The answer shall briefly state the Petitioners' position
3 or defense and shall specifically admit or deny each of the assertions contained in this Notice of
4 Hearing. If the answering Petitioners are without or are unable to reasonably obtain knowledge or
5 information sufficient to form a belief as to the truth of an assertion, Petitioners shall so state, which
6 shall have the effect of a denial. Any assertion not denied is deemed admitted. When Petitioners
7 intend to deny only a part or qualification of an assertion, or to qualify an assertion, Petitioners shall
8 expressly admit so much of it as is true and shall deny the remainder. Any defense not raised in the
9 answer is deemed waived.

10 **If a timely answer is not filed, pursuant to A.A.C. R20-4-1209(D), Petitioners will be**
11 **deemed in default** and the Superintendent may deem the allegations in this Notice of Hearing as
12 true and admitted and the Superintendent may take whatever action is appropriate, including issuing
13 an order or any other remedy necessary or proper for the enforcement of statutes and rules regulating
14 mortgage brokers in Arizona pursuant to A.R.S. §§ 6-123 and 6-131, and imposing a civil money
15 penalty pursuant to A.R.S. § 6-132.

16 Petitioners' answer shall be mailed or delivered to the Arizona Department of Financial
17 Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or
18 delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,
19 Arizona 85007 and to Assistant Attorney General Craig A. Raby, Consumer Protection & Advocacy
20 Section, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

21 **Persons with disabilities may request reasonable accommodations such as interpreters,**
22 **alternative format or assistance with physical accessibility.** Requests for accommodations must
23 be made as early as possible to allow time to arrange the accommodations. If accommodations are
24 required, call the Office of Administrative Hearings at (602) 542-9826.

25 **COMPLAINT**

26 1. Petitioner Envision Lending Group, Inc. ("Envision") is a Utah corporation that is

1 authorized to transact business in Arizona as a mortgage broker, license number MB 0906944,
2 within the meaning of A.R.S. § 6-901, *et seq.* The nature of Envision's business is that of making,
3 negotiating, or offering to make or negotiate a loans secured by Arizona real property within the
4 meaning of A.R.S. § 6-901(11).

5 2. Petitioner Amy Anderson ("Ms. Anderson") is the President of Envision. Ms. Anderson
6 is authorized to transact business in Arizona as a mortgage broker within the meaning of A.R.S.
7 § 6-903(H).

8 3. Neither Envision nor Ms. Anderson are exempt from licensure as mortgage brokers
9 within the meaning of A.R.S. § 6-902.

10 4. An examination of Envision, conducted by the Department beginning June 15, 2009 and
11 concluding October 5, 2009, revealed that Petitioners:

12 a. Failed to first obtain a branch office license from the Superintendent before acting as
13 a mortgage broker; specifically:

14 i. Petitioners have originated and/or processed at least thirteen (13) mortgage loans
15 during 2007 and 2008 on Arizona real property from at least five (5) unlicensed
16 branch locations; specifically:

17 1. Four (4) loans were originated and/or processed at the unlicensed branch
18 located at 4285 North Rancho #160, Las Vegas, Nevada 89130;
19 specifically:

20 (a) Loan # 14122- M.K.- 926 W. Gascon Rd., Queen Creek, AZ
21 85243 (Funded January 18, 2007);

22 (b) Loan # 14142- M.K.- 28050 N. Limestone, Queen Creek, AZ
23 85242 (Funded January 18, 2007);

24 (c) Loan # 14128- M.K.- 30933 N. Muscovite Drive, Queen Creek,
25 AZ 85242 (Funded January 18, 2007); and

26 (d) Loan # 16819- R.P.- 4625 W. Gail Drive, Chandler, AZ 85226

1 (Funded May 14, 2007);

- 2 2. One (1) loan was originated and/or processed at the unlicensed branch
3 located at 10813 S. River Front Park, Whiterocks, UT 84085; specifically

4 (a) Loan # 24922- M.D.- 5242 S. Placita Brisa Grande, Tucson, AZ
5 95706 (Funded September 4, 2007);

- 6 3. Two (2) loans were originated and/or processed at the unlicensed branch
7 located at 1411 West 1250 South, Suite 300, Orem, UT 84058;
8 specifically:

9 (a) Loan # 31357-J.V.- 1084 Thunderbolt Avenue, Lake Havasu City,
10 AZ 86406 (Funded December 5, 2008); and

11 (b) Loan # 25904-W.E.-104 Elm Street, Duncan, AZ 85534 (Funded
12 May 13, 2008)

- 13 4. Five (5) loans were originated and/or processed at the unlicensed branch
14 located at 563 East 770 North, Orem, UT 84097; specifically: and

15 (a) Loan # 21051-P.L.-6089 S. 17th Place, Gilbert, AZ 85298 (Funded
16 November 14, 2007);

17 (b) Loan # 14465-J.M.-4800 W. Paseo Don Carlos, Tucson, AZ 95746
18 (Funded February 5, 2007);

19 (c) Loan # 16783-R.B.-261 Paseo Grade, Quartzsite, AZ 85344
20 (Funded May 4, 2007);

21 (d) Loan # 14185-M.D.-3416 W. Blanche Drive, Phoenix, AZ 85032
22 (Funded January 24, 2007); and

23 (e) Loan # 18626-J.B.-207 Date Street, Page, AZ 86040 (Funded July
24 25, 2007);

- 25 5. One (1) loan was originated and/or processed at the unlicensed branch
26 location at 4001 South 700 East, Suite 620, Salt Lake City, UT 84107;

specifically:

(a) Loan # 15941-B.R.-310 N. 100 E., Fredonia, AZ 86022 (Funded April 8, 2007);

ii. Additional Envision loan files contain processing documents with return addresses to unlicensed locations, appraisals addressed to unlicensed locations and funding checks issued to unlicensed addresses; specifically:

1. 2737 E. Greenway #7, Phoenix, AZ 85032;
2. 1071 N. Grand Avenue, Suite 290, Nogales, AZ 85621;
3. 2101 S. Alma School Road, Mesa, AZ 85210;
4. 10239 W. Via Del Sol, #402, Peoria, AZ 85381;
5. 33 West 1125 North, Hurricane, UT 84737;
6. 17505 N. 79th Avenue, Suite 310, Glendale, AZ 85308;
7. 16807 N. Cave Creek Road, Phoenix, AZ 85032; and
8. 640 East 700 South, St. George, UT 84770;

iii. Petitioners received a total of forty one thousand eight hundred eighty two dollars and thirty eight cents (\$41,882.38) in compensation from the thirteen (13) loans originated and/or processed at the five (5) unlicensed locations listed in paragraph 4.a.i above; specifically:

1. Loan # 14122- M.K.- \$1,428.00 origination fee, \$300.00 processing fee, \$395.00 administration fee and \$833.00 broker fee = \$2,956.00 total;
2. Loan # 14142- M.K.- \$730.00 origination fee, \$300.00 processing fee, \$395.00 administration fee, \$136.88 yield spread premium and \$365.00 broker fee = \$1,926.88 total;
3. Loan # 14128- M.K.- \$1,191.00 origination fee, \$450.00 processing fee, \$395.00 administration fee, \$595.50 yield spread premium and \$199.50 brokerage fee = \$2,831.00 total;

4. Loan # 16819- R.P.- \$2,086.00 origination fee, \$3,956.00 discount points, and \$3,767.32 yield spread premium minus \$550.00 credit = \$9,259.32 total;
 5. Loan # 24922- M.D.- \$2,152.50 origination fee and \$650.00 processing fee = \$2,802.50 total;
 6. Loan # 31357-J.V.- \$765.00 origination fee and \$1,404.00 yield spread premium minus \$795.00 credit = \$1,374.00 total;
 7. Loan # 25904-W.E.- \$1,100.00 origination fee, \$500.00 processing fee, and \$1,674.75 yield spread premium minus \$90.00 credit = \$3,184.75 total;
 8. Loan # 21051-P.L.- \$800.00 broker fee = \$800.00 total;
 9. Loan # 14465-J.M.- \$2,734.88 yield spread premium = \$2,734.88 total;
 10. Loan # 16783-R.B.- \$450.00 broker fee, \$450.00 processing fee, and \$880.76 yield spread premium = \$1780.76 total;
 11. Loan # 14185-M.D.- \$1,507.58 origination fee, \$416.00 2nd mortgage origination fee, \$450.00 administration fee, and \$1,820.42 yield spread premium = \$4,194.00 total;
 12. Loan # 18626-J.B.- \$840.00 origination fee, \$400.00 processing fee, \$350.00 administration fee, and \$1,680.00 yield spread premium = \$3,270.00 total; and
 13. Loan # 15941-B.R.- \$1,515.00 discount fee and \$3,253.29 yield spread premium = \$4,768.29 total;
- b. Failed to include their license number, as issued on their principal place of business license and to fully comply with real estate lending disclosure requirements within all regulated advertising and solicitations for mortgage business; specifically:
- i. Mailer labeled "Important notice regarding your VA mortgage" from B.S., dated

- 1 April 23, 2009: Petitioners failed to include their principal license number;
- 2 ii. Mailer labeled "Call Now – 1034 N. Gilbert Rd. #2, Gilbert, AZ" from D.B.,
- 3 dated August 4, 2008: Petitioners failed to include their principal license
- 4 number;
- 5 iii. Mailer from D.W., dated January 13, 2009: Petitioners failed to include their
- 6 principal license number, and identified the wrong licensee in the mailer;
- 7 iv. Mailer labeled "VA Streamline" from H.B., dated April 29, 2009: Petitioners
- 8 failed to include their principal license number, and provided things of value
- 9 including a \$100.00 gift certificate which is considered things of value under
- 10 RESPA;
- 11 v. Mailer labeled "Senior Savings Advantage Rev. Mtg." from J.H., dated May 6,
- 12 2008: Petitioners failed to include their principal license number;
- 13 vi. Mailer labeled "Attention FHA rev. mtg. notification" from J.H., dated April 23,
- 14 2008: Petitioners failed to include their principal license number;
- 15 vii. Mailer labeled "Senior Savings Advantage Rev. Mtg." from J.H., dated May 6,
- 16 2008: Petitioners failed to include their principal license number;
- 17 viii. Mailer labeled "Senior Savings Advantage Rev. Mtg." from J.H., dated April
- 18 23, 2008: Petitioners failed to include their principal license number;
- 19 ix. Mailer labeled "The Savings" from J.H., dated May 6, 2008;
- 20 x. Mailers labeled "The Advantage" from J.H., dated May 6, 2008: Petitioners
- 21 failed to include their principal license number;
- 22 xi. Mailers labeled "Senior Savings Advantage Ref. Mtg." from J.H., dated May 6,
- 23 2008: Petitioners failed to include their principal license number;
- 24 xii. Mailer from M.W., dated October 16, 2008: Petitioners failed to include their
- 25 principal license number. Regulation Z requires trigger terms used without
- 26 additional disclosure; must provide full scenario (amount or percent of down-

- 1 payment);
- 2 xiii. Mailer from M.T., dated August 25, 2008: Petitioners failed to include their
- 3 principal license number;
- 4 xiv. A thirty (30) second audio recording using an unapproved name, dated October
- 5 27, 2008: Petitioners failed to include their principal license name (Mortgage
- 6 Solution Team used); and
- 7 xv. On website www.envisionlending.com: Petitioners failed to include their
- 8 principal license number;
- 9 c. Failed to conduct the minimum elements of reasonable employee investigations prior
- 10 to hiring employees, specifically:
- 11 i. Immigration Reform and Control documents were incomplete or missing for at
- 12 least five (5) employees;
- 13 ii. The Employment Eligibility Verification (Form I-9) was incomplete or missing
- 14 for at least thirty (30) employees;
- 15 iii. A completed and signed employment application was untimely, missing or
- 16 incomplete for at least five (5) employees;
- 17 iv. A signed statement attesting to all of an applicant's felony convictions,
- 18 including detailed information regarding each conviction, was missing or
- 19 untimely for at least twenty seven (27) employees;
- 20 v. Failed to consult with the applicant's most recent or next most recent employer,
- 21 if any, prior to hiring at least thirty (30) employees;
- 22 vi. Failed to inquire regarding an applicant's qualifications and competence for the
- 23 position prior to hiring at least thirty (30) employees; and
- 24 vii. Failed to obtain a current credit report from a credit reporting agency prior to
- 25 hiring at least thirty (30) employees;
- 26 d. Contracted with or paid compensation to unlicensed, independent contractors;

1 specifically:

- 2 i. Petitioners paid compensation to unlicensed, employee-owned entities for
3 processing in the amount of \$143,965.10 and marketing in the amount of
4 \$1,983,028.52.
- 5 ii. Petitioners' company policy allowed the loan officer to use third party entities to
6 provide marketing and processing services. The loan officers established the
7 relationships and terms. Processing services were activities associated with
8 processing a loan. Petitioners stated that marketing "was understood to include
9 efforts to obtain leads such as flyers, telemarketing and other advertising
10 campaigns."
- 11 iii. Petitioners eliminated the marketing payments on May 1, 2008, because they
12 felt the process was being abused, and that an unreasonable amount of funds
13 were being paid to the marketing companies. Petitioners' loan files contain a
14 funding summary report that reflects the distribution of the loan officer's
15 income, to the processing and marketing companies. The loan files may or may
16 not contain an actual invoice for the processing or marketing business. No
17 additional back-up information exists. Petitioners state that they "would have to
18 contact the loan officer for any other documentation related to the specific
19 payment."
- 20 iv. A copy of Petitioners' third party payment policy was obtained from their
21 employee files, provided by Petitioners. The policy defines a formula to
22 determine the amount to be paid, lesser of 20% or \$500.00. It defines what third
23 party documents are needed prior to receiving payment: A) complete IRS form
24 W-9, B) current business license, C) current worker's compensation certificate,
25 D) invoice for services provided. The policy also defines third party companies
26 and names that cannot be used, and recommends that the third party name

1 include marketing or processing and ends with, "cut checks to on your behalf."

2 v. Additionally Petitioners' personnel files contain example copies, given to new
3 employees, of Petitioners' funding request form, which show how to arrive at
4 the lesser of 20% or \$500.00. Personnel files contain copies of various
5 employee owned company forms: W-9's, applications for state and city licenses,
6 state business licenses, articles of organization for limited liability companies
7 and worker's compensation fund documents. These documents show that loan
8 originators are also the owners of third party entities. Thus, Petitioners have
9 allowed their employees to divert taxable W-2 income to an independent
10 contract.

11 e. Failed to keep and maintain original documents or clearly legible copies of all
12 mortgage loan transactions; specifically:

13 i. Failed to maintain an original or copy of a document showing the application's
14 final disposition, such as a settlement statement or a denial or withdrawal letter,
15 for at least three (3) mortgage loan files;

16 f. Allowed borrowers to sign regulated documents containing blank spaces without
17 written authorization; specifically:

18 i. Petitioners allowed at least two (2) borrowers to sign Form 4506 containing
19 blank spaces;

20 ii. Petitioners allowed at least nineteen (19) borrowers to sign Form 4506-T
21 containing blank spaces;

22 iii. Petitioners allowed at least one (1) borrower to sign Form 8821 containing blank
23 spaces;

24 iv. Petitioners allowed at least one (1) borrower to sign a Good Faith Estimate
25 containing blank spaces;

26 v. Petitioners allowed at least nineteen (19) borrowers to sign Truth in Lending

- 1 disclosures containing blank spaces;
- 2 vi. Petitioners allowed at least four (4) borrowers to sign Servicing Transfer
- 3 disclosures containing blank spaces;
- 4 vii. Petitioners allowed at least four (4) borrowers to sign Disclosure Notices
- 5 containing blank spaces;
- 6 viii. Petitioners allowed at least four (4) borrowers to sign Mortgage Loan
- 7 Origination Agreements containing blank spaces;
- 8 ix. Petitioners allowed at least five (5) borrowers to sign Borrower Authorizations
- 9 forms containing blank spaces; and
- 10 x. Petitioners allowed at least four (4) borrowers to sign Borrower Certification
- 11 and Authorization forms containing blank spaces;
- 12 g. Failed to comply with the disclosure requirements of Title I of the Consumer Credit
- 13 Protection Act (15 U.S.C. §§ 1601 through 1666j), the Real Estate Settlement
- 14 Procedures Act (12 U.S.C. §§ 2601 through 2617), and the regulations promulgated
- 15 under these acts, specifically:
- 16 i. The Good Faith Estimate (“GFE”) was undated and blank in the loan files of
- 17 four (4) borrowers;
- 18 ii. The GFE was missing in the loan files of five (5) borrowers;
- 19 iii. The GFE was untimely in the loan files of five (5) borrowers;
- 20 iv. The GFE was dated prior to the application date in the loan file of one (1)
- 21 borrower;
- 22 v. The Truth in Lending disclosure (“TIL”) was undated and blank in the loan
- 23 files of three (3) borrowers;
- 24 vi. The TIL was incomplete in the loan files of eighteen (18) borrowers;
- 25 vii. The TIL was missing in the loan files of eight (8) borrowers;
- 26 viii. The TIL was untimely in the loan files of five (5) borrowers;

- ix. The TIL was dated prior to the application date in the loan file of one (1) borrower;
- x. The Yield Spread Premium ("YSP") was not disclosed in the loan files of seven (7) borrowers;
- xi. The Application was undated in the loan file of one (1) borrower;
- xii. The Application Fee was not disclosed in the loan file of one (1) borrower;
- xiii. The Administration Fee was not disclosed in the loan file of one (1) borrower;
- xiv. The Credit Report Fee was not disclosed in the loan file of two (2) borrowers;
- xv. The Annual Percentage Rate was not calculated on the TIL in the loan files of eleven (11) borrowers;
- xvi. The Origination Fee was not disclosed in the loan file of one (1) borrower;
- xvii. The Payment Schedule was incorrectly calculated in the loan file of one (1) borrower; and
- xviii. Petitioners collected from borrowers a total of nine thousand five hundred thirty three dollars and fifty cents (\$9,533.50) in undisclosed fees, which must be refunded; specifically:
1. An undisclosed credit report fee of \$80.46 is owed to borrower C.H.;
 2. An undisclosed origination fee of \$2,700.00, an undisclosed YSP of \$24.30, and an undisclosed credit report fee of \$12.45 are owed to borrower R.H.;
 3. An undisclosed YSP of net of \$4,378.79 and an administration fee of \$350.00 are owed to borrower L.M.;
 4. An undisclosed YSP of \$787.50 is owed to borrower E.R.;
 5. An undisclosed YSP of \$1,000.00 is owed to borrower Z.K.; and
 6. An undisclosed application fee of \$200.00 is owed to borrower W.H.;
- h. Made false promises or misrepresentations or concealed essential or material facts in

1 the course of the mortgage broker business; specifically:

2 i. Borrower G.P. closed two (2) mortgage loan transactions, with Petitioners, on
3 two (2) different properties. The loan officer on both transactions was A.S.

4 1. Property One funded by BWFC Corporation on February 5, 2008. An
5 owner occupied refinance including a first mortgage totaling \$140,075.00.
6 The property is located at 350 E. 30th Street, Tucson, AZ 85713.

7 2. Property Two funded by IndyMac Bank on March 26, 2008. An owner
8 occupied purchase including a first mortgage totaling \$261,000.00. The
9 property is located at 4821 North Calle Lianura, Tucson, AZ 85745.

10 3. In December 2007, Petitioners originated an application for the refinance
11 of an owner occupied home. The mortgage file for property one included
12 a final FNMA loan application (form 1003), which did not disclose
13 property two. Petitioners failed to disclose or include the purchase of
14 property two, which documented the intent of the borrower was to owner-
15 occupy property two. Petitioners' file for property two contained a signed
16 sales contract dated January 23, 2008. Petitioners used the same credit
17 report, dated November 26, 2007, for each property and submitted each
18 property to different end lenders. Petitioners were aware that the owner
19 occupied refinance was a misrepresentation, because prior to closing the
20 refinance loan, Petitioners had originated the new owner occupied
21 application and was aware of the contract to purchase the additional home,
22 yet did not disclose this information to the lender. Failure to disclose this
23 new owner occupied purchase transaction concealed a \$261,000.00
24 mortgage obligation and an occupancy requirement. In order for a lender
25 to make a prudent underwriting decision they must know all liabilities and
26 potential liabilities of the borrower. It also affects the amount of money

1 available to close the loans and the required reserves after the loans close.

2 The borrower's clear intent was to purchase an additional home which

3 Petitioners had full knowledge of and helped conceal from the lender.

4 ii. Borrower B.H. closed two mortgage loan transactions, with Petitioners, on two
5 different properties. The loan officer for both transactions was D.K.

6 1. Property one funded by Lehman Brothers Bank FSB on May 21, 2007 An
7 owner occupied refinance including a first and second mortgage totaling
8 \$381,200.00. The property is located at 19232 North Braden Road,
9 Maricopa, AZ 85239.

10 2. Property two funded by GreenPoint Mortgage Funding, Inc. on May 21,
11 2007 An owner occupied refinance including a first and second mortgage
12 totaling \$270,000.00. The property is located at 18765 N. Miller Way,
13 Maricopa, AZ 85239.

14 3. On March 13, 2007, Petitioners originated two applications for the
15 refinance of two different owner occupied homes, property one and two
16 listed above. Current residency was manipulated to reflect the home being
17 refinanced. A borrower can only have one owner occupied home.
18 Property one and two were sent to different lenders to conceal the
19 existence of the other file. In order for a lender to make a prudent
20 underwriting decision they must know all liabilities and potential
21 liabilities of the borrower. It also affects the amount of money available to
22 close the loans and the required reserves after the loans close. Petitioners'
23 clear intent was to get more favorable terms as an owner occupied
24 property and with full knowledge concealed it from the separate final
25 lenders.

26 iii. Borrower J.C. closed two mortgage loan transactions, with Petitioners, on two

1 different properties. The loan officer on both transactions was A.S.

- 2 1. Property One funded by Washington Mutual Bank, FA on October 26,
3 2007 An owner occupied refinance including a first mortgage totaling
4 \$124,000.00. The property is located at 3602 S. 13th Avenue, Tucson, AZ
5 85713.
- 6 2. Property Two funded by BWFC Corporation on November 14, 2007 An
7 owner occupied purchase including a first mortgage totaling \$161,100.00.
8 The property is located at 2027 & 2029 East 34th Street, Tucson, AZ
9 85713.
- 10 3. In August 2007, Petitioners originated an application for the refinance of
11 an owner occupied home, see property one and an application for the
12 purchase of an owner occupied home, see property two. The mortgage file
13 for property one included a final FNMA loan application (form 1003),
14 which did not disclose property two. Petitioners failed to disclose or
15 include the purchase of property two, which documented the intent of the
16 borrower was to owner-occupy property two. Petitioners' file for property
17 two contained a signed sales contract dated September 1, 2007.
18 Petitioners used the same credit report, dated August 8, 2007, for each
19 property and submitted each property to different end lenders. Petitioners
20 were aware that the owner occupied refinance was a misrepresentation,
21 because prior to closing the refinance loan, Petitioners had originated the
22 new owner occupied application and was aware of the contract to purchase
23 the additional home, yet did not disclose this information to the lender.
24 Failure to disclose this new owner occupied purchase transaction
25 concealed a \$161,100.00 mortgage obligation and an occupancy
26 requirement. In order for a lender to make a prudent underwriting

1 decision they must know all liabilities and potential liabilities of the
2 borrower. It also affects the amount of money available to close the loans
3 and the required reserves after the loans close. The borrower's clear intent
4 was to purchase an additional home which Petitioners had full knowledge
5 of and helped conceal from the lender.

6 iv. Borrower B.R. closed one mortgage loan transaction, with Petitioners. The loan
7 officer on this transaction was K.J.

8 1. Property funded by Taylor, Bean & Whitaker Mortgage on April 8, 2007
9 An owner occupied purchase including a first mortgage totaling
10 \$156,785.00. The property is located at 310 North 100 East, Fredonia, AZ
11 86022.

12 2. Petitioners collected discount points from the borrower at the closing of
13 the loan, equal to \$1,515.00. Petitioners locked in and closed the loan at
14 an interest rate of 6.125%. The lock-in documentation reflects that
15 discount points were not needed to obtain a 6.125% interest rate but
16 actually provided a Yield Spread Premium (YSP) of -102.075% or a
17 \$3,253.29 payment back to Petitioners at closing. YSP is paid on loans
18 with interest rates that are higher than market rate. A discount point is a
19 fee paid to reduce the interest rate on a loan, a fee paid to increase the
20 effective yield on a loan with a lower rate. The Housing and Urban
21 Development (HUD) defines discount point, in part as: normally paid at
22 closing and generally calculated to be equivalent to 1% of the total loan
23 amount, discount points are paid to reduce the interest rate on a loan.
24 (<http://www.hud.gov/offices/hsg/sfh/buying/glossary.cfm>) However, when
25 the loan closed Petitioners charged additional discount points of 100.966%
26 or \$1,515.00. Petitioners have required the purchaser to pay interest

1 discount points at closing but then kept the cash of \$1,515.00 and failed to
2 reduce the interest rate. RESPA 3500.14.c states: No person shall give
3 and no person shall accept any portion, split, or percentage of any charge
4 made or received for the rendering of a settlement service in connection
5 with a transaction involving a federally related mortgage loan other than
6 for services actually performed. Since no service was performed no
7 charge can be received. Petitioners have misrepresented a settlement
8 charge for a service that was not performed.

9 v. Borrower R.P. closed one mortgage loan transaction, with Petitioners. The loan
10 officer on this transaction was A.A.

- 11 1. Property funded by Franklin American Mortgage Company on May 12,
12 2007. An owner occupied purchase including a first mortgage totaling
13 \$208,600.00. The property is located at 4625 W. Gail Drive, Chandler,
14 AZ 85226.
- 15 2. Petitioners collected discount points from the borrower at the closing of
16 the loan, equal to \$3,956.00. Petitioners locked in and closed the loan at
17 an interest rate of 6.25%. The lock-in documentation reflects that discount
18 points were not needed to obtain a 6.25% interest rate but actually
19 provided a Yield Spread Premium (YSP) of -101.806% or a \$3,767.32
20 payment back to Petitioners at closing. YSP is paid on loans with interest
21 rates that are higher than market rate. A discount point is a fee paid to
22 reduce the interest rate on a loan, a fee paid to increase the effective yield
23 on a loan with a lower rate. The Housing and Urban Development (HUD)
24 defines discount point, in part as: normally paid at closing and generally
25 calculated to be equivalent to 1% of the total loan amount, discount points
26 are paid to reduce the interest rate on a loan.

1 (<http://www.hud.gov/offices/hsg/sfh/buying/glossary.cfm>) However, when
2 the loan closed Petitioners charged additional discount points of 101.896%
3 or \$3,956.00. Petitioners have required the purchaser to pay interest
4 discount points at closing but then kept the cash of \$3,956.00 and failed to
5 reduce the interest rate. RESPA 3500.14.c states: No person shall give
6 and no person shall accept any portion, split, or percentage of any charge
7 made or received for the rendering of a settlement service in connection
8 with a transaction involving a federally related mortgage loan other than
9 for services actually performed. Since no service was performed no
10 charge can be received. Petitioners have misrepresented a settlement
11 charge for a service that was not performed.

12 vi. Borrower C.H. closed one mortgage loan transaction, with Petitioners. The loan
13 officer on this transaction was K.A.

- 14 1. Property funded by Mortgage IT on October 15, 2007. An owner occupied
15 purchase including a first mortgage totaling \$238,753.00. The property is
16 located at 2828 South Esmeralda Circle, Mesa, AZ 85212.
- 17 2. Petitioners collected discount points from the borrower at the closing of
18 the loan, equal to \$2,387.53. Petitioners locked in and closed the loan at
19 an interest rate of 6.00%. The lock-in documentation reflects that discount
20 points were not needed to obtain a 6.00% interest rate but actually
21 provided a Yield Spread Premium (YSP) of -100.218% or a \$520.48
22 payment back to Petitioners at closing. YSP is paid on loans with interest
23 rates that are higher than market rate. A discount point is a fee paid to
24 reduce the interest rate on a loan, a fee paid to increase the effective yield
25 on a loan with a lower rate. The Housing and Urban Development (HUD)
26 defines discount point, in part as: normally paid at closing and generally

1 calculated to be equivalent to 1% of the total loan amount, discount points
2 are paid to reduce the interest rate on a loan.
3 (<http://www.hud.gov/offices/hsg/sfh/buying/glossary.cfm>) However, when
4 the loan closed Petitioners charged additional discount points of 101.00%
5 or \$2,387.53. Petitioners have required the purchaser to pay interest
6 discount points at closing but then kept the cash of \$2,387.53 and failed to
7 reduce the interest rate. RESPA 3500.14.c states: No person shall give
8 and no person shall accept any portion, split, or percentage of any charge
9 made or received for the rendering of a settlement service in connection
10 with a transaction involving a federally related mortgage loan other than
11 for services actually performed. Since no service was performed no
12 charge can be received. Petitioners have misrepresented a settlement
13 charge for a service that was not performed.

- 14 i. Made a material misstatement on the license renewal application required to be filed
15 with the Superintendent; specifically:
- 16 i. Petitioners' Responsible Individual has never met the Arizona residency
17 requirements and has lived out of state during the period of licensing.
18 Petitioners have continued to state on their mortgage broker license renewal
19 application that their Responsible Individual does live in Arizona. Petitioners
20 have signed and sworn and notarized mortgage broker renewal application four
21 times since original approval stating the information contained therein is true.
22 Petitioners have misrepresented their application and concealed material facts.
23 Petitioners are required to inform the Department and designate a qualified
24 individual to be their Responsible Individual;
- 25 j. Failed to use a correct written document agreement when accepting documents from
26 borrowers; specifically:

- 1 i. Petitioners are not using a written fee/document agreement. A review of
2 Petitioners' files could not document any written fee/document agreements.
3 Petitioners do not collect any up-front fees, thus only the creation of a document
4 agreement is required;
- 5 k. Failed to ensure that Petitioners' Responsible Individual be in active management of
6 Petitioners' activities; specifically:
- 7 i. Petitioners' Responsible Individual, Robert Crowther, Sr., has not been a
8 resident of this state and has not supervised compliance with Arizona statutes and
9 rules as evidenced by the following:
- 10 1. Activity from unlicensed branch locations;
- 11 2. Petitioners have compensated unlicensed contractors \$2,126,993.62 for
12 activities of their employees as a mortgage broker;
- 13 3. Petitioners originated and closed six (6) loans that contain
14 misrepresentations and/or conceal material facts;
- 15 4. The Responsible Individual has not met the requirements and Petitioners
16 have falsely reported on licensing application renewals that he has; and
- 17 5. The number of violations;
- 18 l. Used an appraisal disclosure that places an unlawful 90-day limit on the amount of
19 time in which a borrower may obtain a copy of an appraisal for which the borrower
20 has paid; specifically:
- 21 i. Petitioners have used a disclosure entitled "NOTICE OF RIGHT TO RECEIVE
22 AN APPRAISAL REPORT" that includes a 90-day limit on the amount of time
23 an applicant may request the appraisal.
- 24 5. Based upon the above findings, the Department issued and served upon Petitioners an
25 Order to Cease and Desist; Notice of Opportunity For Hearing; Consent to Entry of Order ("Cease
26 and Desist Order") on January 28, 2010.

6. On March 1, 2010, Petitioners filed a Request for Hearing to appeal the Notice of Assessment.

LAW

1. Pursuant to A.R.S. §§ 6-901, *et seq.*, the Superintendent has the authority and duty to regulate all persons engaged in the mortgage broker business and with the enforcement of statutes, rules, and regulations relating to mortgage brokers.

2. By the conduct set forth in the Findings of Fact, Envision and Ms. Anderson violated the following:

- a. A.R.S. § 6-904(H) by failing to first obtain a branch office license from the Superintendent before acting as a mortgage broker at any unlicensed branch location;
- b. A.R.S. §§ 6-903(P) and 6-906(D) by failing to include their license number, as issued on their principal place of business license and to fully comply with real estate lending disclosure requirements within all regulated advertising and solicitations for mortgage business;
- c. A.R.S. § 6-903(Q) and A.A.C. R20-4-102 by failing to conduct the minimum elements of reasonable employee investigations prior to hiring employees;
- d. A.R.S. § 6-909(B) and A.A.C. R20-4-102 by contracting with or paying compensation to unlicensed, independent contractors;
- e. A.R.S. § 6-906(A) and A.A.C. R20-4-917(B)(6) by failing to keep and maintain original documents or clearly legible copies of all mortgage loan transactions;
- f. A.R.S. § 6-909(A) and A.A.C. R20-4-921 by allowing borrowers to sign regulated documents containing blank spaces without written authorization;
- g. A.R.S. § 6-906(D) and A.A.C. R20-4-917(B)(6)(e) by failing to comply with the disclosure requirements of Title I of the Consumer Credit Protection Act (15 U.S.C. §§ 1601 through 1666j), the Real Estate Settlement Procedures Act (12 U.S.C. §§ 2601 through 2617), and the regulations promulgated under these acts;

- h. A.R.S. § 6-909(L) by making false promises or misrepresentations or concealing essential or material facts in the course of the mortgage broker business;
- i. A.R.S. § 6-905(A)(8) by making a material misstatement on the license renewal application required to be filed with the Superintendent;
- j. A.R.S. § 6-906(C) by failing to use a correct written document agreement when accepting documents from borrowers;
- k. A.R.S. § 6-903(H) and A.A.C. R20-4-102 by failing to ensure that Petitioners' responsible individual be in active management of Petitioners' activities; and
- l. A.R.S. § 6-906(C) by using an appraisal disclosure that places an unlawful 90-day limit on the amount of time in which a borrower may obtain a copy of an appraisal for which the borrower has paid;

3. Petitioners violated the aforementioned rules and statutes in the conduct of their mortgage broker business, which is grounds for the suspension or revocation of Petitioners' mortgage broker license, pursuant to A.R.S. § 6-905(A)(3).

4. Pursuant to A.R.S. § 6-132, Petitioners' violations of the aforementioned statutes are grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation for each day.

5. Pursuant to A.R.S. § 6-132, Envision and Ms. Anderson shall be assessed a civil money penalty, payable to the Department, in the amount of **fifty thousand dollars (\$50,000.00)**. Envision and Ms. Anderson shall be jointly and severally liable for payment of the civil money penalty.

6. Pursuant to A.R.S. § 6-125(B)(4), Envision and Ms. Anderson shall be assessed an examination fee in the amount of **seven thousand nine hundred sixty two dollars and fifty cents (\$7,962.50)**, pursuant to A.R.S. § 6-125.

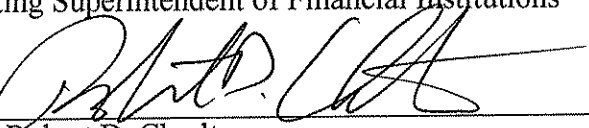
7. The violations, set forth above, constitute grounds for: (1) the issuance of an order pursuant to A.R.S. § 6-137 directing Petitioners to cease and desist from the violative conduct and to

1 take the appropriate affirmative actions, within a reasonable period of time prescribed by the
2 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and
3 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the
4 suspension or revocation of Petitioners' license pursuant to A.R.S. § 6-905; and (4) an order or any
5 other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage
6 brokers pursuant to A.R.S. §§ 6-123 and 6-131.

7 WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the
8 above-described violations, the Superintendent may affirm the January 8, 2010 Cease and Desist
9 Order pursuant to A.R.S. § 6-137; impose a civil money penalty pursuant to A.R.S. § 6-132; suspend
10 or revoke Petitioners' license pursuant to A.R.S. § 6-905; and order or any other remedy necessary
11 or proper for the enforcement of statutes and rules regulating mortgage brokers pursuant to A.R.S.
12 §§ 6-123 and 6-131.

13 DATED this 29 day of March, 2010.

14 Thomas L. Wood
Acting Superintendent of Financial Institutions

15
16 By 
17 Robert D. Charlton
Assistant Superintendent of Financial Institutions

18 ORIGINAL of the foregoing filed this 29th
19 day of March, 2010, in the office of:

20 Thomas L. Wood
Acting Superintendent of Financial Institutions
Arizona Department of Financial Institutions
21 Attn: Susan Longo
2910 N. 44th Street, Suite 310
22 Phoenix, AZ 85018

23 COPY of the foregoing mailed/delivered same date to:

24 Lewis D. Kowal, Administrative Law Judge
Office of the Administrative Hearings
25 1400 West Washington, Suite 101
Phoenix, AZ 85007
26

1 Craig A. Raby
Assistant Attorney General
2 Office of the Attorney General
1275 West Washington
3 Phoenix, AZ 85007

4 Robert D. Charlton, Assistant Superintendent
Judith R. Moss, Senior Examiner
5 Arizona Department of Financial Institutions
2910 North 44th Street, Suite 310
6 Phoenix, AZ 85018

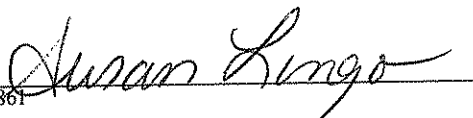
7 AND COPY MAILED SAME DATE by
Certified Mail, Return Receipt Requested, to:

8 Amy Anderson, President
9 Envision Lending Group, Inc.
8300 N. Hayden Road, Suite 207
10 Scottsdale, AZ 85258
Petitioners

11 Amy Anderson, President
12 Envision Lending Group, Inc.
10813 S. River Front Parkway, Suite 300
13 South Jordan, UT 84095
Petitioners

14 National Registered Agents
15 Statutory Agent for Envision Lending Group, Inc.
638 N. Fifth Avenue
16 Phoenix, AZ 85003

17 Michael D. Johnston
Kirton & McConkie, PC
18 1800 Eagle Gate Tower
60 East South Temple
19 P.O. Box 45120
Salt Lake City, UT 84145-0120

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22 # 743861